

AARON C. GROSS (AG-0498)

Sobel Pevzner, LLC

***Attorneys for Defendant:***

***A. DUIE PYLE, INC.***

464 New York Avenue, Suite 100

Huntington, New York 11743

Tel: 631-549-4677

File No.: DP-15692

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
WAYNE BARNES,

Plaintiff,

**Civil Action No.: 1:22-cv-1026**

- against -

**NOTICE OF REMOVAL**

A. DUIE PYLE, INC. and JOHN DOE, name fictitiously  
given to the driver of the motor vehicle,

Defendants.  
-----X

TO: NOVA LAW FIRM, P.C.

***Attorneys for Plaintiff:***

***WAYNE BARNES***

299 Broadway – 17<sup>th</sup> Floor

New York, NY 10007

Tel: 212-233-6686

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C., Section 1441, defendants, **A. DUIE PYLE, INC.**, (the “Removing Defendant”), hereby removes this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York. The Removing Defendant appears solely for the purpose of removal and for no other purpose, reserving all other defenses available to them, and allege as follows:

1. The defendant, A. DUIE PYLE, INC., is an authorized foreign corporation with its principal place of business at 650 Westtown Road, West Chester, Pennsylvania 19382.

2. The plaintiff, WAYNE BARNES, resides at 75 Kneen Street, Shelton, CT 06484.

3. On November 17, 2021, the Removing Defendant served Plaintiff with initial discovery demands, which included a Demand for Damages. A copy of Removing Defendant's initial discovery demands, including Demand for Damages, is annexed hereto as **Exhibit "A."**

4. On January 27, 2022, the Plaintiff served the Removing Defendant with a Verified Bill of Particulars, together with responses to all initial discovery demands, with the exception of a response to Removing Defendant's Demand for Damages. To date, Plaintiff's response to this demand remains outstanding. Copies of Plaintiff's Verified Bill of Particulars and discovery responses are annexed hereto as **Exhibit "B."**

5. Plaintiff's Verified Bill of Particulars acknowledges Plaintiff's operative procedure to his lumbar spine allegedly sustained as a result of the subject accident, and the need for future surgeries with respect to alleged injuries of the right shoulder, cervical spine and left wrist, all of which are alleged to be of a permanent nature. The Plaintiff's allegations for the need for multiple future surgeries is evidence and definitive confirmation of Plaintiff's admission that the amount in controversy is greater than \$75,000.00.

6. This notice of removal is being filed within thirty (30) days of your affiant's receipt of Plaintiff's Verified Bill of Particulars and thus is timely filed pursuant to 28 U.S.C., Section 1446(b).

7. In compliance with 28 U.S.C. Section 1446(a) annexed hereto as **Exhibit "C"** is a copy of the Plaintiff's Summons and Complaint dated October 21, 2021, and electronically filed with the Bronx County Supreme Court on October 22, 2021.

8. Plaintiff's Summons and Complaint was served on Defendant, A. DUIE PYLE, INC., on or about October 27, 2021, MONTANEZ, as evidenced by the Affidavit of Service annexed hereto with the Summons and Complaint as **Exhibit "C."**

9. The Removing Defendant responded to Plaintiff's Summons and Complaint by service of a Verified Answer and Combined Discovery Demands, on November 17, 2021, including a Demand for Damages. A copy of Removing Defendant's Verified Answer is annexed hereto at **Exhibit "D."** (See Combined Discovery Demands at **Exhibit "A."**)

10. On November 19, 2021, Plaintiff filed and served a Request for Judicial Intervention with a Request for a Preliminary Conference, which constitutes all pleadings served upon the parties herein. See **Exhibit "E"** annexed hereto.

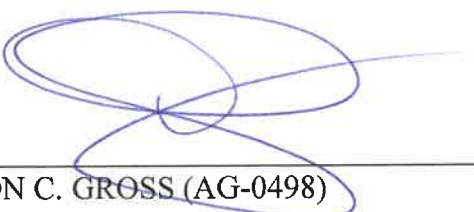
11. The Plaintiff in this action seeks to recover a sum in an amount in excess of the upper monetary jurisdictional limit of all lower courts, in compensation for personal injuries which allegedly occurred on or about the 27<sup>th</sup> day of February, 2021, while the Plaintiff was operating a motor vehicle on Dupont Street at or near the intersection with Oak Point Avenue, in the County of Bronx, State of New York.

12. Jurisdiction in the United States District Court is founded upon 28 U.S.C. Section 1332(a) as there exists diversity of citizenship between the parties and the sum sought by the Plaintiff exceeds Seventy-Five Thousand (\$75,000.00) Dollars.

13. Removing Defendant will promptly file a copy of this Notice of Removal in the Supreme Court of the State of New York, County of Bronx, and will serve a copy of the same on the Plaintiff in accordance with 28 U.S.C., Section 1446(3).

**WHEREFORE**, Removing Defendant, **A. DUIE PYLE, INC.**, gives notice that the above-captioned action commenced against them in the Supreme Court of the State of New York, County of Bronx, has been removed to this Court.

Dated: Huntington, New York  
February 3, 2022



AARON C. GROSS (AG-0498)